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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/518,476

07/12/2005

Carlos Alberto Leyva Franco

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT

PAPER NUMBER

3637

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/518,476	<b>Applicant(s)</b> LEYVA FRANCO, CARLOS ALBERTO	
	<b>Examiner</b> James O. Hansen	<b>Art Unit</b> 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3-15-05</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “layer of textile material” [claim 1] must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Reference No. 29 is depicted in fig. 4, but does not appear to be mentioned in the specification. Corrected drawing sheets in compliance with 37 CFR

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1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “32” has been used to designate “edges”, “upper cross section”, “strip(s)” and “Velcro union”. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The disclosure is objected to because of the following informalities: The term “nervure 20” is not properly understood as presently termed. Appropriate correction is required.

***Claim Objections***

5. Claims 5-32 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, claims 5-32 have not been further treated on the merits.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-3, 4/1, 4/2 & 4/3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claims must be in one sentence form only [note claim 1]. Note the format of the claims in the patent(s) cited. In Claim 1, the phrase “may be attached optionally to a connector module, or be optionally attached to a ear module, or be optionally attached to multiple exhibiting applications” is deemed indefinite since there is ambiguity as to which alternatives are covered by the claim; as

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presently recited, the list of potential alternatives can vary thereby causing confusion since the resulting language does not clearly set forth the metes and bounds of patent protection desired. In Claim 1, the phrases “the upper cross sectional edge”, “the inferior cross sectional edge”, and “the side wall” do not have a proper antecedent basis. In Claim 1, the phrase “wherein opposite vertical edges free of said partition wall forming side wall totally closes the interior storage space, or they are separated each other to define a door opening” is confusing as presently recited and not properly understood [appropriate clarification or correction is required]. In Claim 3, the phrase “and multiple exhibiting applications, or several applications implying the vertical growth of the system” is deemed indefinite since there is ambiguity as to what limitations are actually covered by the above recitation; as presently disclosed, the list of potential applications may vary and it is not clear as to what even constitutes the claimed applications thereby causing confusion since the resulting language does not clearly set forth the metes and bounds of patent protection desired. Consequently, the remaining claims are rejected since they are dependent upon an indefinite claim.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-3, 4/1, 4/2 & 4/3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mengel [U.S. Patent 4,883,331] in view of Propst [U.S. Patent 5,069,466]. Mengel (figures 1-21) teaches of a dismountable, ultra light station

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system comprising: at least one universal, light, easy to assemble module (see different embodiments) without mechanical interlocking elements. The system may be attached to other modules (see figures) in order to form multiple exhibiting stations. The universal module includes a vertical body of cross section and provided with a cover lid (15, 48, 67 e.g.), and a base board (38, below 66 in fig. 20 for example) vertically separated from the lid. Within a lower surface of the cover lid and in the upper surface of the base board, toward the center and around their external edges, a raised area which has a forward vertical surface against which a cooperating band is adhered to form a Velcro closing which is made by a respective Velcro band (such as (19A) or (20A) in fig. 10 as an example – note accompanying description in the specification) arranged along both the upper cross sectional edge and the inferior cross sectional edge of a laminar partition wall forming the side wall of the universal module. Mengel teaches applicants inventive claimed system as disclosed above, including partition walls being covered with fabric (fabric cover panels of fig. 20 for example - see specification); but does not disclose the shape of the vertical body as being elliptical, or show the partition wall as being fabricated by a series of elongated wood elements arranged and joined in a flexible way via an adhered layer of textile material. As to the shape, the position is taken that it would have been an obvious matter of personal preference to vary the size or shape of an element or to vary the distances between elements depending upon the needs and/or preferences of the user, since such a modification would have involved a mere change in the size/shape of a component. A change of this triviality is generally recognized as being within the level of ordinary skill in the art. Furthermore, the Federal Circuit has held that, where the only difference between the prior art and the claims was a recitation of relative dimensions

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of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984). As to the fabrication of the partition wall, note the following: Propst (figures 1-14) is cited as an evidence reference to show that it was known in the art at the time the invention was made to utilize a wall (12) fabricated from slat members (12a) having a suitable adhesive adhered to a back face of the slats to bond with a flexible durable fabric (upper portion of col. 4) in order to provide a panel that is bendable. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify a wall/panel of Mengel so as to incorporate a bendable wall/panel as taught by Propst because this arrangement would enhance the versatility of Mengel's modular system since a bendable panel would lend itself to a wider variety of mounting situations since the panel could conform to the shape of the body with which it was to be mounted upon. As to claim 2, the system may comprise only a universal module as dependent upon the end user. As to claim 3, the system may comprise additional add-on features (see figures) depending upon the needs of an end user. As to claims 4/1-4/3, the module may include a shelf (note figures 14 & 20) that could be connected via a Velcro union as employed in the assembly of the panels forming the module (the specification points out that the hook and loop {Velcro} material can be utilized at other positions and/or configurations).

10. Claims 1-3, 4/1, 4/2 & 4/3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nickens [U.S. Patent 6,027,188] in view of Mengel and Propst.

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Nickens (figures 1-6) teaches of a dismountable, ultra light station system comprising: at least one universal, light, easy to assemble module (see fig. 1) without mechanical interlocking elements. The system may be attached to other modules (depending upon the needs of the user) in order to form multiple exhibiting stations. The universal module includes a vertical body of cross section in a general elliptical way (Fig. 1) and provided with a cover lid (46). Nickens teaches applicants inventive claimed system as disclosed above, including partition walls (22) being covered with fabric (col. 4, lines 54-62) and the incorporation of hook and loop fasteners [Velcro] (118, 120, 122, 124 for example) to secure the walls to the body; but Nickens does not disclose a base board vertically separated from the lid with the board and lid having Velcro for securing the partition wall to the body, or show the partition wall as being fabricated by a series of elongated wood elements arranged and joined in a flexible way via an adhered layer of textile material. As to the incorporation of a base board, Mengel is cited as an evidence reference to show that it was known in the knock-down art to utilize a base board (38) within a body structure, the opposing lid (48) and the board each including hook and loop fasteners for securing walls together to form the assembled body. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the assembly of Nickens so as to incorporate a bottom base board as taught by Mengel because this arrangement would provide Nicken's structure with an enhanced base structure [expanded surface area in contact with a floor surface] while fully enclosing any contents that may be stored/utilized within the interior of the body once assembled. As to the fabrication of the partition wall, note the following: Propst (figures 1-14) is cited as an evidence reference to show that it was known in the art at

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the time the invention was made to utilize a wall (12) fabricated from slat members (12a) having a suitable adhesive adhered to a back face of the slats to bond with a flexible durable fabric (upper portion of col. 4) in order to provide a panel that is bendable. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the flexible wall/panel of Nickens so as to incorporate a similar flexible wall/panel as taught by Propst because this arrangement would enhance the rigidity of Nickens flexible panel since the slats of Propst would offer better strength properties than the polymer coated fabric of Nickens while still allowing the panel to conform to the shape of the body with which it was to be mounted upon. As to claim 2, the system may comprise only a universal module as dependent upon the end user. As to claim 3, the system may comprise additional add-on features depending upon the needs of an end user. As to claims 4/1-4/3, the module may include a shelf (16, 18) that could be connected via a Velcro union as employed in the assembly of the panels forming the module.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wallach et al., and Carr et al., describe modular structures. Theosabrata describes a flexible slat panel with a fabric backing. Himelreich describes a structure utilizing grooved panels.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James O. Hansen/  
Primary Examiner, Art Unit 3637

JOH  
March 27, 2008